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EXHIBIT

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21-cv-00260-PB

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

SECURITIES AND EXCHANGE) Civil Action No.
COMMISSION,) 1:21-cv-00260-PB
)
Plaintiff,)
) VOLUME 1
vs.) (Pages 1 to 376)
)
LBRY, INC.,)
)
Defendant.)
_____)

CONFIDENTIAL VIDEOTAPED DEPOSITION OF
JEREMY KAUFFMAN
New York, New York
Monday, March 21, 2022

REPORTED BY:
ELBIA BAIRE
JOB NO. 220321LHR

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10:03 1 Q. I understand. I'm asking you about a
2 different thing. I'm asking you about the LBRY
3 part of the transaction.

4 A. And -- an address can't be in multiple
10:03 5 wallets.

6 Q. I understand that as well. Let me try
7 to come at it again.

8 In the LBRY YouTube Sync program, was
9 LBRY paying LBC as part of that process?

10:03 10 A. It --

11 MR. MILLER: Objection.

12 A. It -- it was -- can you explain what --
13 what -- paying to who?

14 Q. Well, did LBRY pay for the published
10:04 15 claim?

16 A. LBRY did pay transaction fees, which
17 are very small fees, as part of content that was
18 published by the YouTube program.

19 Q. This may be an obvious question. But
10:04 20 let me ask it as part of the chain anyway.

21 In paying the published claim fees, in
22 paying those very small portions of LBC, did LBRY
23 pay it out of wallet addresses that it controlled?

24 A. Yes.

10:04 25 Q. Did that -- does that mean that during

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10:45 1 you can't -- it's not -- you can't control these
2 kinds of things. You are just attempting to widen
3 the depth at any given price level.

4 Q. When you say, "widen the depth," what
10:45 5 does that mean?

6 A. It means that -- like if someone comes
7 on that want to buy 100,000 LBC, that you don't
8 want 10,000 of it to be at -- at 20 cents and
9 another 10,000 to be at 40 cents and then people
10:45 10 see the price shoot up and then it comes down and
11 it goes back down to 22 or something. Wherever it
12 was -- wherever -- however that would sort of more
13 naturally move it, you know, over time.

14 Because you are not -- you are not
10:45 15 using -- if you were -- if you were attempting to
16 move the price in one way or another, you'd have
17 to actually sell the LBC or you'd have to buy LBC.

18 What they're trying to do is, just
19 smooth -- smooth it out so that it doesn't go as
10:46 20 wiggly. The graph doesn't jump up and down so
21 much from -- from one purchase here and there.

22 Q. Has there ever been a time that you
23 were concerned that LBRY's sale of LBC might
24 affect the price of LBC in some certain way?

10:46 25 MR. MILLER: Objection.

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11:35 1 lawyers told you.

2 A. Just for purposes of being correct,
3 that's the only entity I know as being involved in
4 creating this for Julian -- aiding Julian's
11:35 5 immigration efforts.

6 Q. Got it.

7 MR. JONES: I'm going to mark
8 Exhibit 125, please.

9 (Exhibit 125 was marked for
10 identification.)

11 THE WITNESS: Are we done with these --

12 MR. JONES: We're done for now, yes.

13 THE WITNESS: I'll just --

14 MR. JONES: Thank you.

11:36 15 All set.

16 Q. I'm going to give you this in one
17 second. But let me ask you a couple of questions
18 about it -- about the topic first.

19 A. Sure.

11:36 20 Q. I want the change to an entity known as
21 MoonPay.

22 A. Yes.

23 Q. Are you familiar with that entity?

24 A. Yes.

11:36 25 Q. What is your understanding of what

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11:36 1 MoonPay is?

2 A. MoonPay -- what would be a word for
3 it -- they're a vendor that provides payment
4 services. They basically will process credit card
11:36 5 transactions for purposes of purchasing
6 cryptocurrency.

7 They may do other things, but they --
8 they have a big presence in that industry as a
9 vendor for providing cryptocurrency purchases via
11:36 10 -- via credit card.

11 Q. Okay. And did LBRY partner with
12 MoonPay in any way?

13 A. LBRY hired MoonPay as a vendor.

14 Q. Okay. What services was MoonPay hired
11:37 15 to do?

16 A. MoonPay was hired to process credit
17 card transactions for purchases of LBRY credits.

18 Q. Why did LBRY hire MoonPay?

19 A. LBRY hired MoonPay so that we could
11:37 20 make LBRY credits more available to users of the
21 LBRY network.

22 Q. Why was that a desirable outcome for
23 LBRY?

24 A. LBRY desires its software to be used as
11:37 25 widely as possible by as many people as possible.

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11:37 1 And usage of the software, at least to its full
2 extent, requires some amount of the crypto --
3 cryptocurrency.

4 Q. So users need to get LBC to use the
11:37 5 full extent of the LBRY network?

6 A. They need LBC to create a handle or to
7 publish something. They don't need LBC to access
8 content.

9 Q. Okay. When did LBRY decide it wanted
11:37 10 to hire the services of MoonPay?

11 A. I don't recall specifically.

12 Q. Can you give me a general time period?
13 Or year?

14 A. Was it the beginning of 2021 or was it
11:38 15 all the way back to 2020? I'm not -- I'm not
16 sure.

17 Q. I'll give you this document here, that
18 may help you.

19 A. I'm sure you have the date there.

11:38 20 Q. Well, I don't necessarily have them
21 right there. But that will at least help you sort
22 of put a frame of reference around it. Let me
23 have you look through that document.

24 MR. JONES: For the record, this is
11:38 25 125. Which begins at LBRY SEC 14114.

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12:06 1 A. Josh would determine that.

2 Q. And is there any sort of standard or --
3 or -- or set of decisions to be made about where
4 it goes, one or the other?

12:06 5 MR. MILLER: Objection.

6 A. I'm not aware of one.

7 Q. Okay. So LBRY can draw from both
8 accounts for any purpose?

9 MR. MILLER: Objection.

12:06 10 A. I am not -- I'm not certain. But
11 presumably.

12 Q. Okay. And does all of the money that
13 LBRY receives from the sale of LBC go into either
14 its Bitcoin wallet or its two bank accounts?

12:06 15 A. I believe so.

16 Q. Okay. Do you have any accounts that
17 are specifically earmarked for purposes --
18 specific purposes?

19 A. I --

12:06 20 MR. MILLER: Objection.

21 A. I don't believe so.

22 Q. Okay. Do you have any accounting codes
23 that are specifically earmarked for certain
24 purposes?

12:07 25 A. I'm not involved -- I'm not closely

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12:07 1 involved in the accounting practices of my
2 company.

3 Q. Okay. Are you aware of any time where
4 LBRY said we are going to sell LBC for this
12:07 5 specific purpose and that specific purpose only?

6 MR. MILLER: Objection.

7 A. I have no immediate specific
8 recollection of that.

9 Q. When LBRY sells LBC, has it generally
12:07 10 been to essentially fund operating expenses?

11 A. LBRY sold LBC for purposes of making
12 LBC available and so that the company would have
13 money.

14 Q. When you say, "the company would have
12:07 15 money," do you mean it would have money in its
16 bank account or it would have money to operate?

17 A. So they would have money in its bank
18 account.

19 Q. Okay. And does LBRY use the money in
12:07 20 its bank account to operate the business?

21 A. Yes.

22 Q. Okay. The money that LBRY lent to
23 Odysee, did that come from one of those two bank
24 accounts that you are talking about?

12:08 25 MR. MILLER: Objection.

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12:13 1 YouTubers that essentially ask Odysee to perform
2 publishing for them. After that publishing
3 happens, that content is then on the decentralized
4 network and it is controlled by those YouTubers.

12:13 5 Because it's in their wallet, not ours.

6 Q. Okay. But in that process you were
7 describing with Odysee, it is Odysee or LBRY that
8 puts the original video onto the blockchain?
9 Or -- or -- that's a little bit --

12:13 10 A. Yeah. Yeah.

11 Q. I understand I probably used the wrong
12 terms there.

13 Essentially, publishes the -- causes
14 the video to be associated with the blockchain?

12:13 15 MR. MILLER: Objection.

16 A. It's -- it's more like just performing
17 an initial announcement, is what's happening.

18 Q. All right. Is that essentially making
19 the claim or is that different?

12:13 20 A. Yes.

21 Q. Okay. Making the claim.

22 And doe LBRY -- LBRY originally makes
23 the claim on the blockchain?

24 A. Well, Odysee -- Odysee does for

12:13 25 YouTubers now, not LBRY.

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12:13 1 Q. Okay. But prior to Odysee being a
2 separate company, did LBRY make the claim on the
3 blockchain?

4 MR. MILLER: Objection.

12:14 5 A. LBRY did make claims on the blockchain
6 on behalf of YouTubers that were then in those
7 YouTubers' wallets.

8 Q. What kind of claim is that?

9 A. A published claim.

12:14 10 Q. Okay. And that's a published claim
11 being made by LBRY and then later Odysee?

12 A. Correct.

13 Q. Okay. And that claim comes with a
14 transfer of LBC?

12:14 15 A. No, I don't believe so.

16 Q. No, there's no fee that goes along with
17 that?

18 MR. MILLER: Objection.

19 A. There is. I misunderstood.

12:14 20 Q. Of course. That's fine.

21 A. There's no -- the -- the LBRY -- the
22 entity -- whenever a published transaction is
23 happening, there is a small -- we are talking
24 about fractions of a cent of a fee associated with
12:14 25 that that has to be paid. You can't do it without

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12:23 1 it's, you know, reasonable, I think, to say that
2 metadata that looks like that is -- is from the
3 YouTube -- is from one of the YouTube --

4 Q. LBRY is not putting published claims on
12:23 5 its metadata that looks similar to YouTube but is
6 not YouTube, is it?

7 A. Correct.

8 Q. Okay. So if I had a known LBRY wallet
9 address and metadata that indicated YouTube,
12:23 10 fairly certain that that's LBRY publishing that
11 YouTube claim to the blockchain?

12 A. That seems reasonably likely.

13 Q. Okay.

14 MR. JONES: Mark two more here. That's
12:23 15 the first one.

16 (Exhibit 126 was marked for
17 identification.)

18 (Exhibit 127 was marked for
19 identification.)

12:24 20 MR. JONES: Okay. Let me give you
21 Exhibits 126 and 127, Mr. Kauffman. 126, for the
22 record, is the one that starts -- it has 2018
23 through March 2021. And is at LBRY SEC 56542.
24 And 127 is the profit and loss statement from
12:24 25 March to October 2021.

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12:24 1 Thank you, sir.
2 And that is at LBRY SEC 56765.
3 Q. Are you familiar with these documents,
4 Mr. Kauffman?
12:25 5 A. Not specifically.
6 Q. Are these profit and loss statements
7 that go along with your company?
8 A. Yes.
9 Q. Okay. And you know them to be produced
12:25 10 by LBRY in the course of this litigation?
11 A. That appears to be the case.
12 Q. Okay. Up at the top -- I want to start
13 on -- on the January 2018 to March 2021, which I
14 believe is 126.
12:25 15 A. I see.
16 Q. Okay. There is in January -- in the
17 28 -- let me take a step back.
18 There's a 2018 column, that's the first
19 column of numbers; is that correct?
12:25 20 A. Yes.
21 Q. And there is a 2019 column to the right
22 of it, correct?
23 A. Yes.
24 Q. Okay. And so on across the columns of
12:25 25 the chart, correct?

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12:25 1 A. Yes.

2 Q. In the first couple of columns, there's

3 sales of product income on the one, two, three,

4 four, five -- fifth line of the income part of the

12:25 5 profit and loss statement.

6 Do you see that?

7 A. Yes.

8 Q. Is that product income sale of LBC?

9 A. I would say assume so.

12:26 10 Q. Was there any other product that was

11 being sold by LBRY during those time periods, 2018

12 and 2019?

13 A. They're -- we sold some merchandise and

14 some USB keys and things. But -- but this would

12:26 15 presumably predominantly be LBC income.

16 Q. And by "predominantly," you mean more

17 than 90 percent?

18 A. Reasonably likely.

19 Q. Okay. And then at some point, the

12:26 20 accounting for sale of LBC gets its own line.

21 That's the third line of the document.

22 A. I see that.

23 Q. Okay. But the sale of LBC is

24 essentially, either in the early days, this

12:26 25 product income or on the sale of LBC line,

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12:26 1 correct?

2 A. That appears to be correct.

3 Q. Okay. In fact, in 2020, there's a
4 separate sales line.

12:26 5 Is that for the merchandise that you
6 were talking about?

7 A. That would -- that would make sense.

8 Q. Okay. And there's also a line, it's
9 the sixth line, it says, "Service/Fee Income."

12:27 10 Do you know what that is?

11 A. I don't recall specifically.

12 Q. Okay. What about the services that are
13 in the -- the seventh line?

14 A. I don't -- I don't recall specifically.

12:27 15 Q. Okay. But that's all revenue -- those
16 lines, "Sales, Service/Fee Income," and
17 "Services," that's all revenue that LBRY is
18 getting apart from the sale of LBC, correct?

19 A. I believe so.

12:27 20 Q. Okay. Do you have any -- scratch that.
21 In the -- in the January to March 2021
22 column, about halfway down the page under
23 "Expenses," it says, "Creator LBC Buyback."

24 Do you see that?

12:27 25 A. I do.

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12:27 1 Q. What is the Creator LBC Buyback?
2 A. I was wondering the same thing.
3 Q. Do you know that your company seems to
4 have engaged in something called Creator LBC
12:27 5 Buyback to the tune of about \$40,000?
6 A. I do not recall that specifically.
7 Q. Okay. And if you go over to
8 Exhibit 127, there is a row for Creator LBC
9 Buyback there, too, yes?
12:28 10 A. That appears to be the same figure.
11 Q. Okay.
12 A. These documents both overlap in March.
13 Q. So does that tell you that in March --
14 well, never mind.
12:28 15 Well, in March of 2021, there was
16 something called a Creator LBC Buyback?
17 A. The -- I -- I don't -- I have no idea
18 what this line item is, so I don't want to
19 speculate.
12:28 20 Q. Is creator a term that folks at LBRY
21 generally use.
22 MR. MILLER: Objection.
23 Q. In reference to activity in the LBRY
24 network.
12:28 25 MR. MILLER: Objection.

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12:28 1 A. We do sometimes refer to publishers as
2 creators.

3 Q. Okay. Going back to 126, the earlier
4 in time document.

12:28 5 Do you see that there's a line for
6 "International Employee and Freelance"?

7 A. I do.

8 Q. Does this refer to a particular
9 international employee or does LBRY have multiple
12:29 10 international employees?

11 A. We had multiple international
12 employees.

13 Q. Okay. And then about six line -- one,
14 two, three, four, five -- six lines down from
12:29 15 there is seven, is "Wages."

16 You see that?

17 A. Yes.

18 Q. Okay. So if we can -- so wages in 2020
19 were 712,632 and 50 cents, correct?

12:29 20 A. Wages in 2020 were 771. That -- oh,
21 712.

22 Q. I wasn't counting the taxes, but I see
23 where you were. Yeah.

24 A. Yes. Okay. Yes. And well -- I
12:29 25 don't -- I don't know if the word wages only refer

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12:29 1 to employees?

2 Q. I don't know. I'm just going based on
3 what is over in the left-hand column where it
4 says, "Wages."

12:29 5 A. I suspect that -- just give me a
6 minute.

7 I'm trying to understand whether that
8 figure includes the international employees or
9 not. And what the word wages means specifically.

12:30 10 Q. So as the CEO of LBRY, Mr. Kauffman, do
11 you ever look at a profit and loss statement for
12 your company?

13 A. You know, not all the time.

14 Q. Well, I understand not all the time.

12:30 15 No one does anything all the time. I'm asking
16 about occasionally.

17 Do you occasionally look at the profit
18 and loss statement of your company?

19 A. I don't look at them very frequently,

12:30 20 no.

21 Q. How frequently do you look at them?

22 A. You know, I don't know if I've ever
23 looked at this.

24 Q. You've never looked at a profit and

12:30 25 loss statement for your company?

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12:30 1 A. You guys don't know I'm unusual yet?

2 Q. I'm not going to comment on your

3 usualness or unusualness, Mr. Kauffman.

4 I'm just asking whether or not you look

12:30 5 at the profit and loss statement for your company?

6 A. I don't.

7 Q. Okay. So you've never seen a profit
8 and loss statement for your company?

9 MR. MILLER: Objection.

12:30 10 A. I don't know that I would say never.
11 But I don't look at them frequently.

12 Q. If we look at "International Employee
13 and Freelance" and "Wages," it looks like in 2020,
14 if you add those two numbers together, you get
12:31 15 about 1.1 million, correct?

16 A. That sounds roughly correct.

17 Q. Okay. And then if you look at what was
18 spent in January to March of 2021, you get 257,894
19 there.

12:31 20 You see that?

21 A. Yes.

22 Q. And then 110,000 for international
23 employees and freelance?

24 A. Yes.

12:31 25 Q. Okay. So that's about 360 there,